

# Notice of Allowability

Application No.

09/677,095

Examiner

Robert M. Pond

Applicant(s)

HALBERT ET AL.

Art Unit

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment (06 June 2005) and Examiner's Amendment (Paper #20050914).
2. ☒ The allowed claim(s) is/are 35,36,41-47,50,51,55-66 and 70-80.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 9/16/05; 10/31/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 20050919.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

#### ***Authorization***

Authorization for this examiner's amendment was given in a telephone interview with Ms. Colleen V. Chien, Reg. #55,062 on 19 September 2005.

#### ***Allowed Claims***

Claims 35, 36, 41-47, 50, 51, 55-66, and 70-80 are allowed. Claims 1-34, 37-40, 48, 49, 52-54, and 67-69 are canceled.

#### ***In the Claims***

The claims as amended on 06 June 2005 have been amended as follows:

- Delete claim 36 in its entirety and insert therefore:
  - - 36. The system of claim 35, the merchandising staff data processing system further configured to modify the price curve for the featured item so as to increase a range of acceptable buyer-submitted offers.- -
- Delete claims 37, 38, and 38 in their entirety.
- In claim 50, after "market equilibrium manager" insert therefore:

- -system- -

- Delete claim 51 in its entirety and insert therefore:

- - 51. The method of claim 50, the method further comprising:

modifying the price curve for the featured item using the market equilibrium manager system so as to increase a range of acceptable buyer-submitted offers from a first range to a second range, wherein the second range is greater than the first range.- -

- Delete claims 52, 53, and 54 in their entirety.
- In claim 55, after "market equilibrium manager" insert therefore:

- -system- -

- Delete claim 63 in its entirety and insert therefore:

- - 63. A method for testing price sensitivity for a featured item in an on-line buying-group sale, comprising:

defining an on-line buying-group sale for a featured item; storing in a storage device a data repository including at least price and quantity data for the featured item;

accepting inputs from prospective buyers in the form of buyer offers for the featured item;

responsive to the inputs, generating a price sensitivity output that provides buyer offers for the featured item across the price data for the featured item in the data repository; and

receiving inputs from a user associated with the seller in the form of manipulation of the price sensitivity output curve and modifying the price sensitivity output curve responsive to the inputs.- -

- In claim 65, after “market equilibrium manager” insert therefore:

- -system- -

- Delete claim 66 in its entirety and insert therefore:

- - 66. The article of manufacture of claim, the fifth code segment further defined to:

modify the price curve for the featured item using the market equilibrium manager system so as to increase a range of acceptable buyer-submitted offers from a first range to a second range, wherein the second range is greater than the first range.- -

- Delete claims 67, 68, and 69 in their entirety.

- In claim 69, after “market equilibrium manager” insert therefore:

- -system- -

- In claim 70, after “market equilibrium manager” insert therefore:

- -system- -

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- Delete claim 79 in its entirety and insert therefore:

- - 79. An article of manufacture, which comprises a computer readable medium having stored therein a computer program for testing price sensitivity

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for a featured item in an on-line buying-group sale, the computer program comprising:

a first code segment which, when executed on a computer, defines an on-line buying group sale for a featured item;

a second code segment which, when executed on a computer, stores in a storage device a data repository including at least price and quantity data for the featured item;

a third code segment which, when executed on a computer, accepts inputs from prospective buyers in the form of offers for the featured item;

a fourth code segment which, when executed on a computer, uses the inputs from the prospective buyers to dynamically produce a price sensitivity output that provides buyer offers for the featured item across the price data for the featured item in the data repository; and

a fifth code segment which, when executed on a computer, receives inputs from a user associated with the seller in the form of manipulation of the price sensitivity output curve and modifies the price sensitivity output curve responsive to the inputs.- -

### ***In the Specification***

The specification as amended has been amended as follows:

- Page 1, line 15, delete "Attorney Docket MCTA-001/00US," and insert therefore: - -now U. S. Patent 6,631,356, issued on October 7, 2003,- -

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- Page 10, line 3, delete "Figures 2 and 4," and insert therefore:  
- -Figures 1 and 2,- -
- Page 10, line 4, delete "software 24," and insert therefore:  
- -software,- -
- Page 10, line 5, after "tools" insert therefore: - -24- -
- Page 10, line 6, before "26" delete "server processes" and insert therefore:  
- -data access components- -
- Page 10, line 9, delete "client computer program 32" and insert therefore:  
- -client computer browser 32- -
- Page 10, line 11, before "i.e. the" delete "server 36," and insert therefore:  
- -server,- -
- Page 10, line 11, after "i.e. the" delete "HTTP server," and insert therefore:  
- -HTTP server 36,- -
- Page 10, line 24, "delete "and server" and insert therefore:  
- -residing in e-commerce server- -
- Page 10, line 25, before "54" delete "processes"
- Page 10, line 25, before "56" insert therefore: - -database server- -
- Page 16, line 25, delete "24" and insert therefore: - -22- -
- Page 16, line 25, before "32" insert therefore: - -browsers- -
- Page 17, line 8, delete "database is" and insert therefore: - -database 44  
is- -
- Page 17, line 10, delete "form." and insert therefore: - -form 45.- -

- Page 17, line 31, delete "host" and insert therefore: - -database- -
- Page 17, line 31, delete "184" and insert therefore: - -185- -

### ***In the Drawings***

The following changes to the drawings as entered on 29 September 2000 have been approved by the Examiner and agreed upon by Applicant:

- In Figure 1, below "Communication Servers" insert therefore: - -HTTP Servers- -
- In Figure 2, under stick figure labeled "28" delete "Customers" and insert therefore: - -Buyers- -
- In Figure 5, delete "44" and insert therefore: - -45- -
- In Figure 7, delete "184" and insert therefore: - -185- -

In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

### ***Reasons for Allowability***

The following is an examiner's statement of reasons for allowance:

The field of the invention pertains to aggregating buyers engaging in electronic commerce in order to leverage the group's purchasing strength to support a seller's sales goals. Specifically, the invention uses a market equilibrium manager that a) receives inputs from buyers making offers during the sales cycle, b) receives inputs from the seller during the sales cycle as a result of

the seller modifying a price curve, and c) dynamically adjusts the price during the ongoing sale as determined by the inputs received from the seller which pulls more buyers into the bid pool.

Claims 35, 50, 63, 65, and 79: no prior art of record neither discloses nor teaches a system, method, and computer program product that allows the seller to modify a price curve during an ongoing sales in order to capture additional buyer bids previously excluded from the acceptable bid range.

The closest prior art Pallakoff does not teach or suggest the seller dynamically altering the conditions of an ongoing sale in order to capture more buyers whose bids would otherwise be excluded. Pallakoff defines pre-sale pricing data associated with quantity thresholds, buyer pooling bids to achieve quantity thresholds that lower the selling price as a threshold is reached, but does not teach or suggest the seller modifying a price curve during the ongoing sale to change thresholds in order to capture more buyers. Pallakoff does not teach displaying a pricing curve for seller modification or manipulation during an ongoing sale.

Neither Pallakoff nor prior art cited in combination with Pallakoff disclose, teach or suggest the claimed invention. Clearwater defines a demand curve but this is defined before an auction. Once the auction begins there is no dynamic determination of a second price curve or the seller modifying the define curve to define a second range greater than the first range of acceptable buyer bids.



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Fisher teaches an interactive auction whereby the combination of Clearwater and Fisher would change the principle of operation of Pallakoff as combined.

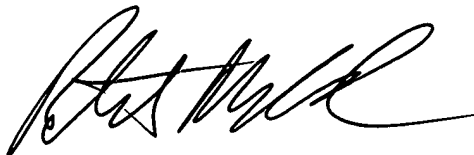
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. M. Pond', with a stylized, cursive script.

Robert M. Pond  
Primary Examiner  
September 6, 2005